

will cause the Indians in Texas, West of the Pacas River, to be collected upon the Reserve provided for them.

On motion of Mr. Graham, the Senate adjourned until tomorrow morning at 10 o'clock.

SATURDAY, January 23, 1858.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The Journal of yesterday was read and adopted.

Mr. Walker presented the petition of N. H. Clanton; referred to the committee on Public Lands.

Mr. Potter made the following reports:

The Judiciary committee have considered a bill supplemental to an act to provide for the registry of Deeds, &c., and recommended its passage.

The Judiciary committee have considered a bill to amend the first section of an act to change the time of holding the County Courts of Upshur county, and direct me to report a substitute for the same, and to recommend its adoption and passage.

The Judiciary committee have considered a bill to incorporate a School for the Blind, and direct me to report that the committee can find no sufficient reason for the proposed legislation at this time. The fund provided by the State for the education of the blind under the provisions of the act to establish an institution for the education of the blind, is managed by trustees, appointed by the Governor, and the school is under their direction. The committee therefore direct me to recommend that the bill be laid on the table.

Mr. Stockdale, from the Judiciary committee, made the following reports:

The Judiciary committee have considered the petition of sundry citizens of Ellis county, praying a graduation of the license tax for the retail of spirituous liquors, and instruct me to report that the reduction in any instance, or in any particular class of cases, would be productive of no good, and against the policy of the law. I am therefore directed to recommend that the petition be laid upon the table.

The committee on the Judiciary have considered a House bill to incorporate the town of Clinton, in DeWitt county,

and instruct me to recommend its passage with the following amendments.

AMENDMENTS.—Insert in section 10, line 2, between the words "taxes" and "upon," the following: "not to exceed the rate of fifty cents upon one hundred dollars ad valorem."

Strike out at the end of the last line in section 11, after the word "Jury," the words "of six men."

Insert in line 2, of section 12, after the word "fines," and before the word "for," the following: "Not to exceed one hundred dollars."

On motion of Mr. Stockdale, the rule was suspended, bill and report taken up, read, amendments adopted, and bill passed to a third reading.

Rule further suspended, bill read a third time and passed.

Mr. Burroughs from the committee on Enrolled bills, reported the following bills correctly enrolled, properly signed, and this day presented to the Governor:

A bill supplemental to an act to change the time of holding the terms of the District Court in the 11th Judicial District;

A bill to incorporate the town of Gilmer;

A bill to authorize the Clerk of the District Court of Nacogdoches county to transcribe certain records therein named;

A bill for the relief of John W. McLaughlin;

A bill for the relief of the Washington county Railroad Company; and

A bill to give to each corporate county in this State its own county surveyor, map and records, and to define the duty of surveyors.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported—

A bill for the relief of D. M. Symonds;

A bill further regulating proceedings in the District Courts;

A bill to amend the first section of an act to relinquish to the inhabitants of Ysleta, in El Paso county, a tract of land adjoining said town; and

A joint resolution for the relief of the heirs of D. Rowlett, correctly engrossed.

On motion of Mr. Russell, the substitute offered by the committee on the Judiciary, for a bill to change the time of holding the county courts of Upshur county, was, under a suspension of the rules, adopted, and bill ordered to be engrossed; rule further suspended, bill read a third time and passed.

A message was received from the House informing the Senate that the House had passed, the following bills originating in the House :

A bill to define the time of holding the courts in the 18th Judicial District ;

A bill for the relief of Benj. F. Terry ;

A bill to define the time of holding the District Courts in the 5th Judicial District ; and

A bill to amend an act to create the 15th Judicial District, provide for the election of a Judge and District Attorney thereof, and define the time of holding courts therein, approved January 21st, 1856 ; and

A bill to amend an act to incorporate the Houston Tap and Brazoria Railroad company, passed September the 1st, 1856 ;

And that the House had concurred in the Senate's resolution to refer the message of the Governor on Kansas Affairs to a Joint Select committee of the two houses, and had appointed Messrs. Murrah, Bee, Jennings, Mills, Chilton, Munson, Rainey, Kittrell, Poag and Powell, the committee on the part of the House ;

Also the following bills originating in the House :

A bill to provide for transcribing county records ;

A bill for the relief of certain purchasers of Austin city and out lots ;

A bill to amend the charter of the San Antonio River Navigation Company, passed August 29, 1856 ;

A bill making an appropriation for the payment of certain claims therein mentioned ; and

A bill to incorporate the Mexican Gulf, Texas and Missouri Railroad Company.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported as correctly engrossed—

A bill to amend the first section of an act to change the time of holding the County Courts in Upshur county, approved November 13th, 1857.

Mr. Burroughs reported—

A bill for the relief of George W. Newcome ;

A bill supplemental to an act providing for running the boundary between Texas and the Territories of the United States ; and

A bill to amend an act to incorporate the Houston Tap and

Brazoria Railroad company, correctly enrolled, properly signed, and this day presented to the Governor.

Mr. Potter, chairman of the Judiciary committee, to which was referred a bill to authorize and require the Chief Justice of Tarrant county to order an election to re-locate the county seat of said county, reported, that a majority of the committee direct me to report the bill to the Senate for its consideration, without recommendation, *pro* or *con*.

Mr. Taylor of Cass, made the following report :

The committee on Public Debt, have considered the petition of Thomas Powell, and find that petitioner alleges he had performed many things for the Republic of Texas, for which he asks to be paid.

There is no evidence to sustain such allegations, except a letter from Gale Borden to petitioner, acknowledging the receipt of one six pound cannon, balls, powder, &c., as a present to Texas from petitioner.

The petition alleges that they were worth \$107, and that he is now poor and wishes remuneration for them, although they were originally intended as a present to Texas. The committee instruct me to report a bill for his relief, granting him \$107, and ask its passage.

A bill for the relief of Thomas Powell ; read first time.

Mr. Pirkey made the following report :

The committee on Public Lands have considered a bill donating to actual settlers on vacant public domain one hundred and sixty acres of land, and a majority of the committee instruct me to recommend its indefinite postponement.

Mr. Guinn made the following report :

The committee on Claims and Accounts, to which was referred a bill for the relief of Samuel St. John, Jr., have considered the same, and find that in 1835 and 1836, before the battle of San Jacinto, he donated to the Provisional Government the sum of \$6,000, without any hope of receiving either land or money in return ; but in consideration of the valuable aid which the Government received from this applicant, the Legislature ordered twelve thousand acres of land scrip to issue to said St. John, supposing the certificates to be worth fifty cent per acre, counting no interest upon the \$6000. It being a donation, the applicant could not legally claim, or hold the State bound to him for even the principal, much less the interest.

As there is no law authorizing or requiring the State to pay the claim under consideration, and as the applicant has already received the 12,000 acres of land above alluded to, the committee think the bill should not pass.

Mr. Paschal introduced the following joint resolutions, which were severally read first time :

A Joint resolution proposing an amendment to the Constitution, so as to increase the number of Supreme Court Judges to five.

A joint resolution to amend the Constitution, so as to make the official term of the Governor expire on the 7th day of November, in every two years ; and

A joint resolution to call a Convention to amend the Constitution.

Mr. Pirkey introduced a joint resolution granting leave of absence to the Hon. Wm. S. Todd, Judge of the 8th Judicial District ; read first time.

On motion of Mr. Pirkey, the rule was suspended, bill read a second time and ordered to be engrossed—rule further suspended, bill read a third time and passed.

Mr. Herbert introduced a bill concerning Writs of Certiorari from Justices Courts ; read first time.

On motion of Mr. Herbert, the rule was suspended, bill read a second time and ordered to be engrossed ; rule further suspended, bill read a third time and passed.

On motion of Mr. Walker, a bill to authorize the issuance of patents upon certain surveys in Peters' Colony, with amendments from the committee on Public Lands, was taken up, read, amendments adopted, and bill ordered to be engrossed.

On motion of Mr. Walker, the rule was suspended, bill read a third time and passed.

A message was received from the House, informing the Senate that the House had passed the following bills originating in the House :

A bill for the relief of Jesse Walling ;

A bill for the relief of James T. Gorman ;

A bill for the relief of Florinda Dixon ;

A bill for the relief of Jacob H. Shepherd ;

A bill for the regulation of patrols and prescribing their duties ;

A bill to incorporate the Adelphi Society of Mound Prairie Institute, located at Mound Prairie, 8½ miles Northeast of Palestine, in Anderson county ;

A bill for the relief of the heirs of Abner C. Davis ;

A bill for the relief of pre-emption settlers under the acts of January 22d, 1845, February 7th, 1853, and February 13th, 1854 ;

A bill supplemental to and amendatory of an act, approved January 28th, 1856, to authorize and require the County Court of Brazoria county to establish, discontinue and regulate roads, public and private, in said county, and cause public roads and bridges to be constructed and kept in good repair ; and

A bill supplemental to an act to create the 19th Judicial District of the State of Texas, to regulate the holding of the terms of the District Court therein, and providing for the election of a District Judge and District Attorney in said District, and for the trial of certain cases therein, approved December 19th, 1857 ; and

A Senate's bill to legalize the acts of Wm. T. Harris, County Surveyor of Wood county, with amendments ;

And that the House had concurred in the amendments of the Senate to the House bills—

To incorporate the Millville Male and Female Academy, of Rusk county ; and

To incorporate Dallas Lodge, No. 44, I. O. O. F. ;

And refused to concur in the amendments of the Senate to a House bill for the purchase of the Alamo Monument.

ORDERS OF THE DAY.

A bill to exempt certain property from execution and forced sale, special order for to-day, was taken up and read.

Mr. Walker offered the following amendment to come in after the word slave :

“And where the party has no slave, cattle, horses, hogs, sheep, or other property, to the amount of five hundred dollars in value.”

Mr. Paschal offered the following as a substitute for the bill and amendment :

Strike out all after the enacting clause and insert :

“That in addition to the property now exempted from forced sale under execution, property to be selected by the defendant in execution, to the amount of seven hundred and fifty dollars.”

On motion of Mr. Guinn, the bill and amendments were laid on the table.

By leave, Mr. Graham presented the petition of sundry citizens of Rusk county, on the subject of Notaries Public; referred to the committee on State Affairs.

Mr. Pedigo presented the petition of sundry citizens of Liberty county, asking the creation of a new county; referred to the committee on Counties and County Boundaries.

Mr. Martin made the following report:

The committee on Private Land Claims, have considered a bill for the relief of Mary A. Collins, and the veto message of the Governor thereupon, with all the original papers, and are fully satisfied that the veto power was properly exercised upon the information furnished the Governor by the Commissioner of the General Land Office; but the committee have examined the subject, and find that he was misinformed. I am therefore instructed to return the bill and message to the Senate, with these statements, and recommend it to the consideration of the Senate.

A message was received from the Governor transmitting the following communication:

Gentlemen of the Senate,

and House of Representatives:

I find myself reluctantly compelled to return, without approval, to the Senate, in which it originated, the act for the relief of the Houston and Texas Central Railway Company, with my objections thereto.

It is at all times unpleasant to disagree with the Legislature upon questions of public policy; yet duty requires that I should withhold my sanction from all such acts as in my judgment conflicts with the Constitution, however diffident I may be of my own opinion, or however much I may be inclined to favor the objects sought to be attained.

On examining the act under consideration, I find it the same in substance, (the alterations being immaterial only) as the one from which I withheld my approval, and gave the reasons therefor, on the 26th of last month. The objections to that act exist in full force to this:

1st. The act is still liable to the objection of containing more than one object. The mere alteration of the caption cannot affect the body of the bill, unless that were changed in conformity with it.

2d. This, as well as the act before mentioned, on certain conditions remits the forfeiture of a bond of \$10,000, execu-

ted under the provisions of the act to encourage internal improvements, &c., and validates in the company a right to lands with which it could only be invested by virtue of a compliance with the conditions of the bond, executed under the law, from which their authority was derived. The Constitution declares, Article VII, section 24: "Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title." Now does this act come within this restriction?

The object expressed in the title of the Act is the relief of the Houston and Texas Central Railway Company; and by an examination of the body of the bill, it is found that the intention is to relieve the Company from the effects of a failure to comply with the conditions of their charter and the provisions of the Act to encourage the construction of internal improvements by donations of land, relief from every stipulation or condition, within the scope of the legislative power to alter, amend or remit, accruing from a failure to comply, may be properly incorporated in one enactment. But this Act, by its first section, grants permission to the Company to extend their Road northward and beyond the limits of the State, into the United States Indian Territory, and the Territory of Kansas, with the consent of the political authorities of such Territories. This is not relief; it is not the removal of any wrong, burden or grievance, under which the Company is laboring. It is, on the contrary, an amendment of the charter, and the extension of an additional privilege to the Company, which is not expressed in the title, nor has it any connection with that which is the main object of the Act. There can scarcely exist a doubt that the Act embraces two objects—one of which is the amendment of the charter by conferring new privileges upon the Company, and the other the relieving them from the consequences of failure to comply with the conditions of the existing law.

It is too late to enquire into the wisdom of the Constitution in restricting laws enacted to one object.

The remaining objections to the Act are, to my mind, still more fatal to it than the foregoing. The bond sought to be canceled has already been forfeited. The lands have reverted to the public domain, and the Company have no claim to them. The time when the Legislature could relieve the Company passed by when the forfeiture accrued, and becomes the subject of Executive clemency as soon as it is attempted to be

enforced under Judicial sentence. This bond, executed under the act of January 30th, 1854, was forfeited for non-compliance with the conditions specified therein, on the first day of November, 1857. Can the Legislature remit this forfeiture? The 11th Section, Article 5, of the Constitution, provides that, "in all criminal cases, except in those of treason or impeachment, he (the Governor) shall have power, after conviction, to grant reprieves and pardons;" and, "under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures." By this clause the Executive is invested with absolute authority to grant reprieves and pardons in all criminal cases, and to remit forfeitures in *all* cases, under such rules as the Legislature may prescribe.

The 1st Section of the Act of 26th February, 1848, provides, "that, after conviction, the Governor shall, without restriction, have power to remit fines and forfeitures of a pecuniary character at his discretion." By another section it provides "that, after conviction, the Governor shall have power to remit forfeitures of lands, or of rights and privileges, or of forfeitures of any character known to our laws."

This law does not confer the power to remit forfeitures upon the Governor that is given by the Constitution, but contains the rules prescribed by the Legislature under which the power is to be exercised.

The power being thus conferred by the Constitution to remit forfeitures, the Legislature is necessarily excluded from its exercise. The objection may be urged, in relation to the bond, that there has been no decree of a Court declaring it forfeited. The forfeiture results from a non-performance of the conditions, and not from the already existing fact of forfeiture, and is the means by which it is enforced.

In the case of the lands, they reverted to the State, and became a part of the public domain, in the failure of the Company to complete the section of road according to the terms upon which they were issued. This is sufficiently declared by the law from which their authorization and survey are derived, and under which the bond was created.

As I have stated in my former message, they both occupy a like position; if the one has been forfeited, so has the other, and should depend on the same authority for remission. And, again: if, in the time within which the conditions were to have been fulfilled, relief and extension had been asked, there could have been no question as to the right of the Legislature

to grant it. But altogether a different state of the case is presented. The time expired, according to the face of the obligation by its own limitation, on the first day of November; and hence the Legislature must be estopped from action in the premises. The exercise of the power proposed in the bill necessarily involves the principle in every case of bond, contract or forfeiture, under the Constitution, including every case upon bail or recognizance, and of every other case where bonds with conditions are taken to the State, if not decreed by judgment of a Court. Believing its exercise in this case to be of most dangerous precedent, I should not be prepared to approve it, even though my mind were free from all doubt of the right in the Legislature to do so.

Signed,

H. R. RUNNELS.

On motion of Mr. Paschal, the bill and message were made the special order for Monday next, at 12 o'clock M.

On motion of Mr. Guinn, the Senate adjourned until 10 o'clock, Monday morning.

MONDAY, January 25, 1858.

The Senate met pursuant to adjournment—Prayer by the Chaplain—roll called, quorum present.

The Journal of Saturday was read and adopted.

Mr. Lott presented the credentials of Hon. Benjamin F. Tankersly, Senator from the county of Harris, who came forward took the oath of office and his seat.

On motion of Mr. Lott, Mr. Tankersly was added to the committee on the Judiciary, on Finance and Internal Improvements.

Mr. Potter made the following reports :

The committee on the Judiciary have considered the House bill to incorporate the town of Marlin. The Legislature having passed an act providing for the incorporation of towns and cities, in which full provision is made for the people, organizing themselves into such incorporations, without further Legislative action, and by the observance of which much time and expense in Legislating upon such subjects will be saved to the State. I am directed by a majority of the committee to return the bill to the Senate and recommend that it be laid upon the table. If the inhabitants of the town of Marlin desire to have themselves incorporated, they can accomplish